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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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)

problems. To accommodate this goal, KNTV asks the Commission to delete channel 11 at Willits, that community's first local television service. In its Notice, the Commission was properly "hesitant" to accept such a proposal. 8 FCC Rcd 3674 (Chief, Allocations Branch May 27, 1993). The Commission should now definitely reject it.

I. KNTV HAS FAILED TO DEMONSTRATE ANY NEED TO MOVE ITS FACILITIES.

In support of its proposal, KNTV argues that its existing Loma Prieta Peak site is "one of the sites in the San Francisco Bay Area" that is most susceptible to a devastating earthquake. Petition at 2. As San Francisco licensees, KBHK and KGO are no strangers to the potential for serious damage posed by earthquakes in the Bay Area. KNTV has failed to demonstrate, however, how or where it would move to obtain any "more seismically stable site" in that area. Id.

As a threshold matter, KNTV's earthquake evidence is incompetent. It is supported only by the declaration of a former California state official who admits that he "ha[s] no formal academic training or field experience as a geologist, a seismologist, or a seismic engineer" and "do[es not] purport to be . . . an expert." Hammond Decl. ¶ 1. That former state official has done no more than to "review . . . existing and available literature and maps" and to relate purported views of present state officials. Id. ¶ 4. This kind of "testimony"

should not form the basis of any Commission determination to delete Willits' only local service.

Moreover, KNTV's "testimony" in fact says very little. All it really claims is that the Sargent-Borregal fault

1. Dr. Crouse has concluded that during the remaining life of the KNTV tower it will probably not experience another shaking as strong as it did in 1989, and that it would be unlikely to experience significant ground cracking, slumping, fissures, or landslides. More importantly, he concludes that "[r]elocating the tower from Loma Prieta peak to another peak to the northwest will most likely increase the ground shaking hazard that the tower might experience." Crouse Decl. ¶ 16. In his view, peaks closer to the San Francisco Peninsula segment of the San Andreas

A. Contrary to KNTV's Claim, There Are Sites Available to the South of Its Present Site That Would Not Require Deletion of Channel 11.

One critical premise of KNTV's proposal is the statement of its engineer that "[a]ny movement southwards . . . will result in the degradation of signal quality and terrain shielding into the city of San Jose because of the nature of the topography of the Santa Cruz mountains." Biby Statement at 1. This assertion includes no demonstration of the lack of available sites to the south. In fact, as demonstrated in the attached engineering statement of Dane E. Ericksen of Hammett & Edison, Inc., sites in the area of the KSBW(TV) site 8 km to the southeast of Loma Prieta could be used to place an acceptable signal into San Jose. Ericksen Statement at 3-4.

As the Commission's Notice suggests,[1/] the availability of such sites is fatal to KNTV's proposal. It is well established Commission policy, for example, that applicants proposing short-spaced sites "must, as an initial matter, establish the nonavailability of fully-spaced sites." Orange Park Florida T.V., Inc. v. FCC, 811 F.2d 664, 669 (D.C. Cir. 1987), citing Townsend Broadcasting Corp., 62 F.C.C.2d 511, 512

[1/] See 8 FCC Rcd at 3674-75, ¶ 5:

> "If other sites are available, petitioner should demonstrate why those other locations are not suitable to accommodate its relocation plans. . . . Failure to provide the requested information could result in a denial of the proposal."

(1976). Where a station seeks to solve spacing problems by deleting the co-channel allocation altogether, a showing of no alternative site should be no less essential.

B. Nor Has KNTV Made Any Showing Why It Cannot, As KBHK and KGO Have Done, Secure Its Existing Tower by Structural Improvements.

Instead of relying on the draconian step of deleting Willits' first local service, KNTV could minimize the potential for earthquake damage in the same way that Mt. Sutro users have done in San Francisco -- by making improvements to its tower facility.

As noted above, KBHK and KGO recognize the potential damage for earthquakes throughout the Bay Area. Indeed, they are both intimately familiar with that potential, as a result of the well-publicized devastation wrought by the 1989 earthquake in San Francisco itself. See Ericksen Statement at 3 & Figure 2. Notwithstanding this disaster, the Mt. Sutro tower suffered no structural damage whatsoever in the 1989 earthquake. That tower includes non-conducting guy wires on the three antenna stacks, which ensure against resonating oscillations during an earthquake. Thus, Mt. Sutro users were able to minimize the potential for damage even in the midst of a major earthquake affecting San Francisco. Id.

As set forth in the attached statement of Madison J. Batt, P.E., KNTV could also minimize the potential for earthquake

damage at its present site by relatively inexpensive alterations. Mr. Batt, an Associate in the Structural Engineering division of TRA Architecture Engineering Planning Interiors, Ltd., concludes that the KNTV tower needs no strengthening to withstand future earthquakes. Mr. Batt notes that compliance with modern wind loading criteria, coupled with framing the tower to a pinned base, would minimize the risk of damage by permitting rotation of the base. Batt Statement ¶¶ 13-19. KNTV has thus failed to demonstrate that a site move is necessary to guard against earthquake damage.

III. IN THE ABSENCE OF ANY COMPELLING JUSTIFICATION, THERE IS NO BASIS FOR DELETING SERVICE TO WILLITS.

In November 1987, the Commission allocated channel 11 to Willits as its first local video service, based upon a showing that Willits was significantly underserved. 2 FCC Rcd 6962 (Policy and Rules Division 1987). In doing so, however, the Commission advised interested parties that ". . . no applications will be accepted for Channel 11 at Willits" during the ATV freeze. Id. at 6963.

As set forth in the attached engineering statement, Willits continues to be significantly underserved. Only KFWU(TV) in Ft. Bragg, a satellite of KRCR-TV in Redding, currently provides service over-the-air to Willits. No other television station -- or even any other possible allocation -- places or

could place even a Grade B contour over Willits or, indeed, over much of Mendocino County. Ericksen Statement at 1-2 and Figure 1.[2/] Thus, deletion of channel 11 in Willits would be flatly inconsistent with the Commission's television allocation policy. See Sixth Report and Order, 41 F.C.C. 148, 167 (1952). Accord, e.g., WITN-TV, Inc. v. FCC, 849 F.2d 1521 (D.C. Cir. 1988); VHF TV Top 100 Markets, 63 F.C.C.2d 840, 847-48 (1977) (subsequent history omitted).

KNTV also suggests that channel 11 will not even be

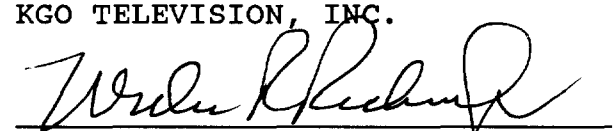
judgment to allocate channel 11 to Willits as its first local service.

Conclusion

For the reasons stated above, KNTV's proposal to delete channel 11 from Willits should be rejected.

Respectfully submitted,

UTV OF SAN FRANCISCO, INC.
KGO TELEVISION, INC.



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Their Attorneys

Of Counsel:

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Senior General Attorney
Capital Cities/ABC, Inc.
77 West 66th Street
New York, NY 10023

July 19, 1993

JOINT ENGINEERING EXHIBIT

TV STATIONS KPIX,
KGO-TV, AND KBHK-TV
SAN FRANCISCO, CALIFORNIA

ENGINEERING EXHIBIT IN SUPPORT OF
COMMENTS TO
MM DOCKET 93-142

July 16, 1993

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

STATEMENT OF DANE E. ERICKSEN, CONSULTING ENGINEER

The firm of Hammett & Edison, Inc., Consulting Engineers, has been jointly retained by Group W Television, Inc. (Cal.), licensee of TV Station KPIX, Channel 5, San Francisco; by KGO Television, Inc., licensee of Station KGO-TV, Channel 7, San Francisco; and by UTV of San Francisco, Inc., licensee of Station KBHK-TV, Channel 44, San Francisco, to review the engineering issues raised in MM Docket 93-142.

MM DOCKET 93-142

In response to a Petition for Rule Making ("Petition") filed by Granite Broadcasting Corporation ("Granite"), licensee of TV Station KNTV, Channel 11, San Jose, California, to amend the TV Table of Allotments by deleting the vacant allocation for Channel 11 at Willits, California, the Commission issued the instant Notice of Proposed Rule Making. Granite argued that deletion of the Channel 11 allocation for Willits was necessary to allow it to relocate KNTV from its present site at Loma Prieta, a 1,156-meter peak 25 kilometers south of San Jose, California. Granite argued that the Loma Prieta site is so seismological unsafe that it must vacate that site, and relocate to some seismologically safer site on the San Francisco Peninsula. Granite claimed that no relocation to the south of its present site would be possible because of terrain obstruction problems to its city of license. Granite argued that deletion of the vacant Channel 11 allocation for Willits, or the substitution of a UHF television channel, would be in the public interest because the Willits allocation is unavailable for application as a result of the current freeze on the filing of applications for new TV stations within 304.9 kilometers of San Francisco, one of the advanced television (ATV) freeze cities.

THE EFFECT OF DELETING CHANNEL 11 FROM WILLITS

[redacted]

MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

BAY AREA SEISMIC CONSIDERATIONS

In its Petition, Granite submitted a 16-page exhibit by Richard E. Hammond purporting to demonstrate that Loma Prieta is so unstable as to force KNTV to vacate that site for a more

MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

THE CHANNEL 11 WILLITS ALLOCATION DOES NOT PRECLUDE
A SITE RELOCATION BY KNTV

The attached map, Figure 3, shows that there is a large area in which KNTV could relocate without causing any short spacings to existing stations, applications, or allocations (including Willits). Contrary to the claim made by Granite, KNTV could be relocated to the south without significant terrain obstruction to its city of license. For example, if KNTV relocated 8 kilometers to the

Jose would be possible from the KSBW site. Thus, Granite's engineer is mistaken in his claim that any relocation of the KNTV tower would have to be to the north in order to overcome "geographic and topographic factors."[3]

FEASIBILITY OF AN EARTHQUAKE RESISTANT TOWER AT KNTV'S EXISTING SITE

We have additionally retained the services of Mr. Madison Batt, P.E., of TRA, a consulting firm that specializes in tower engineering and inspection. Mr. Batt's engineering exhibit, Attachment B, indicates that it would be feasible to modify the existing KNTV tower to withstand the Upper Level Earthquake (ULE) shaking identified by Dr. Crouse as likely to occur at Loma Prieta over the next 30 years. Mr. Batt concludes that the reason the KNTV tower and antenna suffered structural damage from the 1989 Loma Prieta earthquake was because the tower base was (and

SUMMARY OF FINDINGS

1. The areas surrounding Willits, California, is presently served by only one TV station.

2. Deletion of Channel 11 at Willits would not free up use of that channel for ATV transmissions at San Francisco because of the precluding effect of the continued NTSC operation of KNTV on Channel 11 in San Jose.

3. Relocating from Loma Prieta would probably increase the earthquake risk to KNTV, certainly not decrease it.

4. It is feasible to modify the existing tower at Loma Prieta to make it less likely to suffer damage in the unlikely event of another earthquake.

5. There is at least one suitable site to which KNTV could move and meet all existing FCC requirements.

CONCLUSION

Based on the studies reported above, it is my considered professional opinion that there is no demonstrated technical basis to delete the Channel 11 allotment at Willits, California.

LIST OF FIGURES

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Map showing predicted Grade B signals in the vicinity of Willits, California
2. Map showing locations of earthquake-damaged Bay Area broadcast towers
3. Map showing KNTV allocation conditions
4. Map showing predicted City Grade coverage over all of San Jose from KSBW site
5. Terrain profiles from KSBW site to San Jose
6. Terrain-sensitive coverage map showing actual City Grade coverage from KSBW site
7. Photographs of Loma Prieta communications site.

The following exhibits were commissioned by Hammett & Edison, Inc. and are incorporated into these Docket 93-142 comments:

EXHIBIT 1: Engineering Statement of Dr. C.B. Crouse, P.E.

EXHIBIT 2: Engineering Statement of Madison Batt, P.E.

Dane E. Ericksen, P.E.

July 16, 1993

REGISTERED PROFESSIONAL ENGINEER
DANE E. ERICKSEN
No. 11654
Exp. 9-30-96
ELECTRICAL
STATE OF CALIFORNIA

AFFIDAVIT

State of California
County of San Mateo | ss:

Dane E. Ericksen, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registration No. E-11654 which expires on September 30, 1996, and is employed by the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,

2. That he graduated from California State University, Chico, in 1970, with a Bachelor of Science Degree in Electrical Engineering, was an employee of the Field Operations Bureau of the Federal Communications Commission from 1970 to 1982, with specialization in the areas of FM and television broadcast stations and cable television systems, and has been associated with the firm of Hammett & Edison, Inc., since October 1982,

3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Group W Television, Inc. (Cal.), licensee of TV Station KPIX, Channel 5, San Francisco; by KGO Television, Inc., licensee of Station KGO-TV, Channel 7, San Francisco; and by UTV of San Francisco, Inc., licensee of Station KBHK-TV, Channel 44, San Francisco, to review the engineering issues raised in MM Docket 93-142,

4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and

5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.

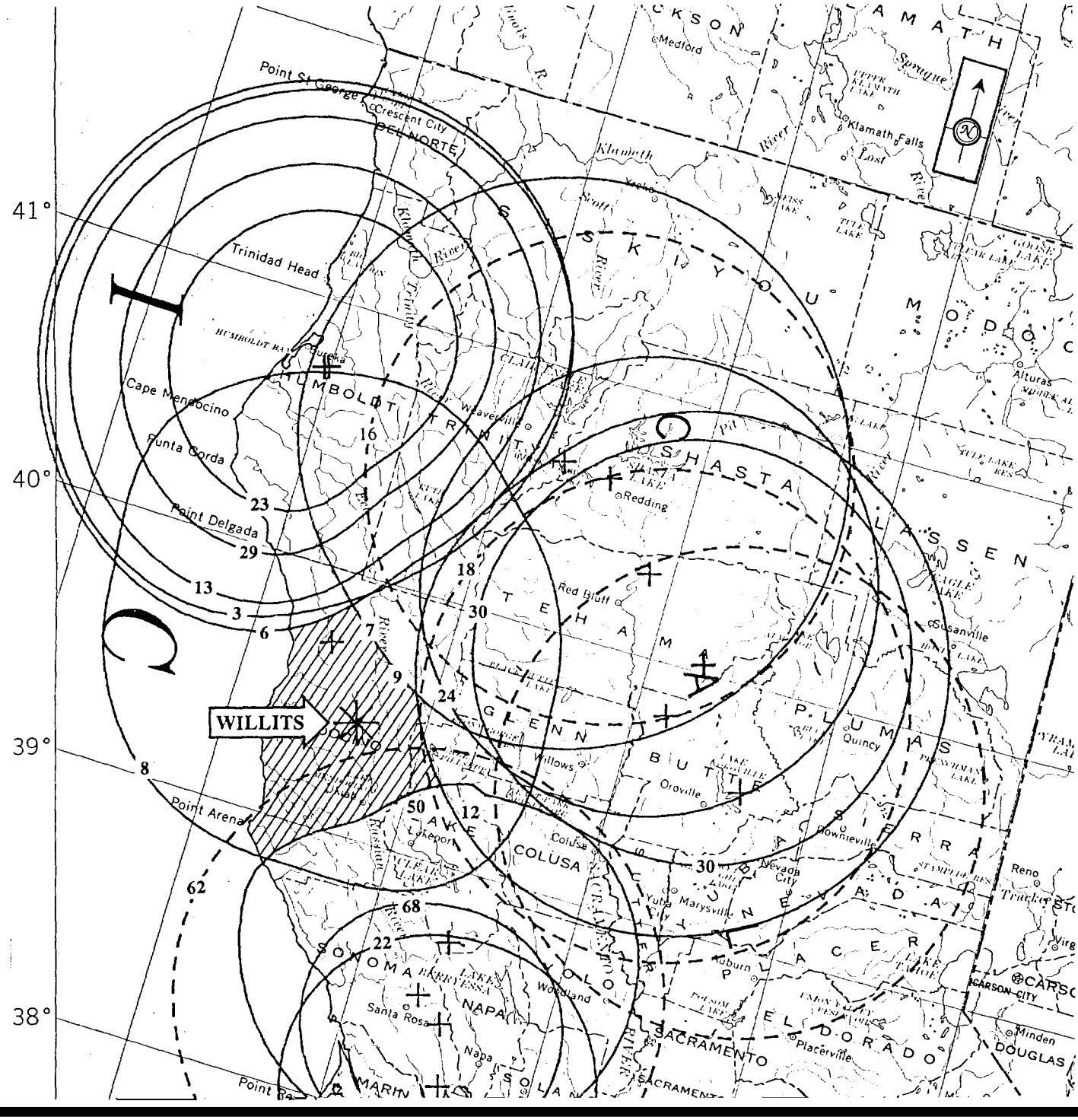
Dane E. Ericksen, P.E.

Subscribed and sworn to before me this 16th day of July, 1993.

OFFICIAL SEAL
Ernest B. Montener
NOTARY PUBLIC - CALIFORNIA
SAN MATEO COUNTY
My Comm. Expires June 8, 1995

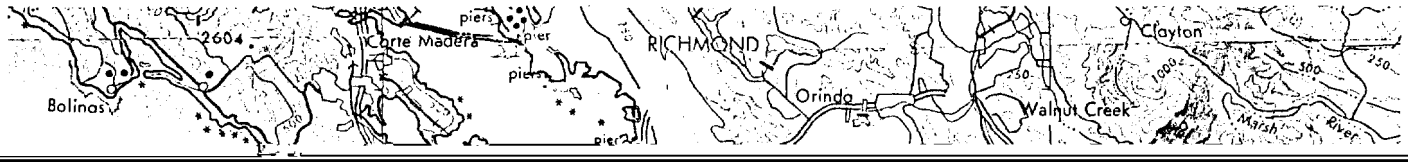
MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

GRADE B CONTOURS OF OTHER ALLOCATED CHANNELS AROUND WILLITS



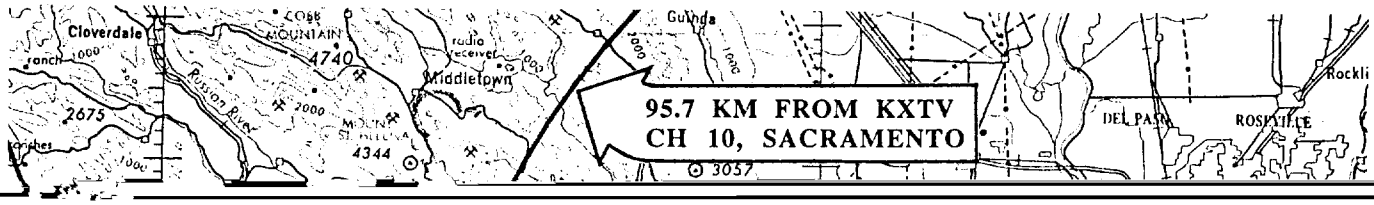
MM DOCKET NO. 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

LOCATIONS OF MAJOR STRUCTURES DAMAGED IN 1989 LOMA PRIETA EARTHQUAKE



MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

KNTV ALLOCATION CONDITIONS



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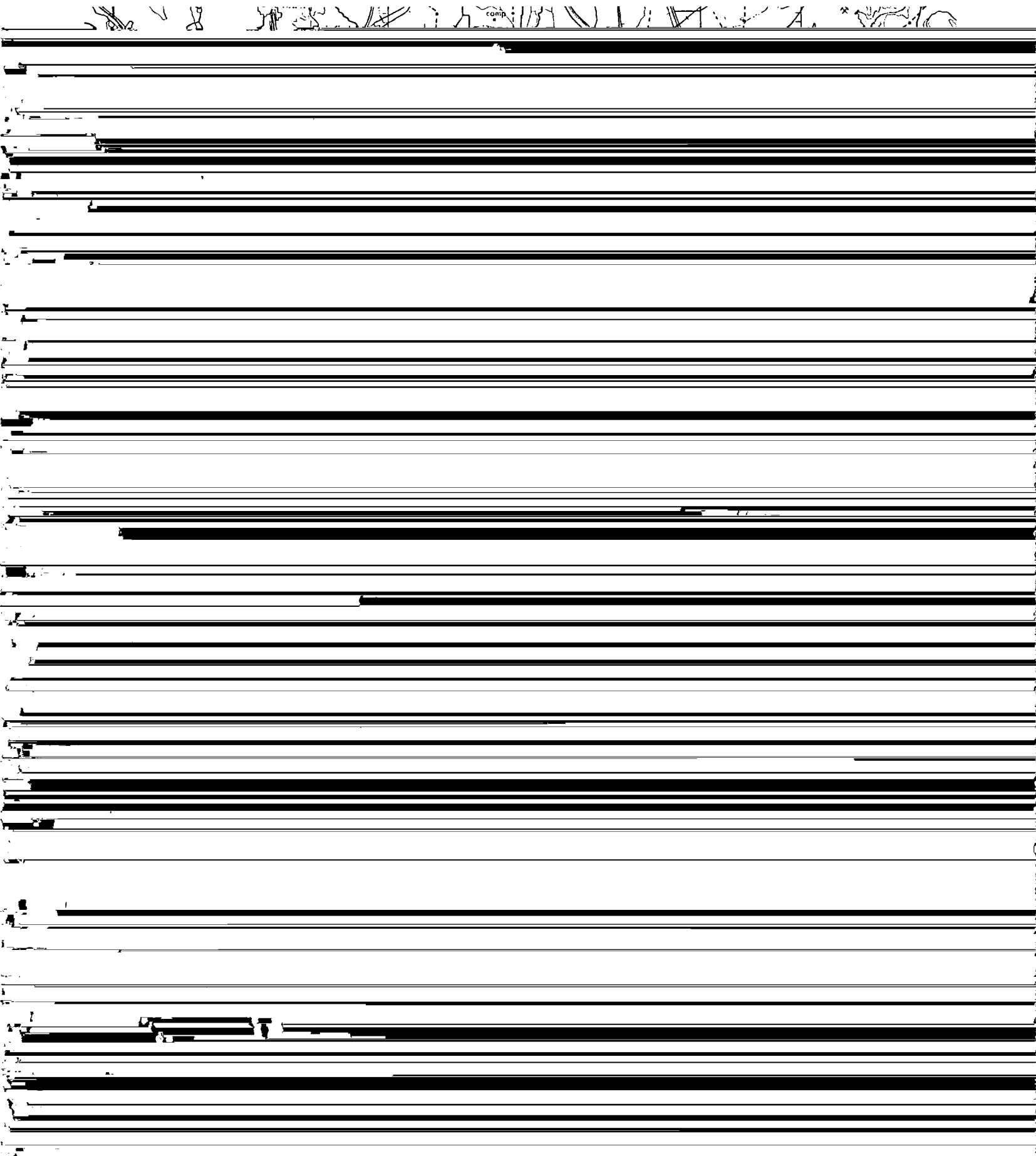
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

CITY GRADE COVERAGE OF SAN JOSE FROM KSBW TOWER



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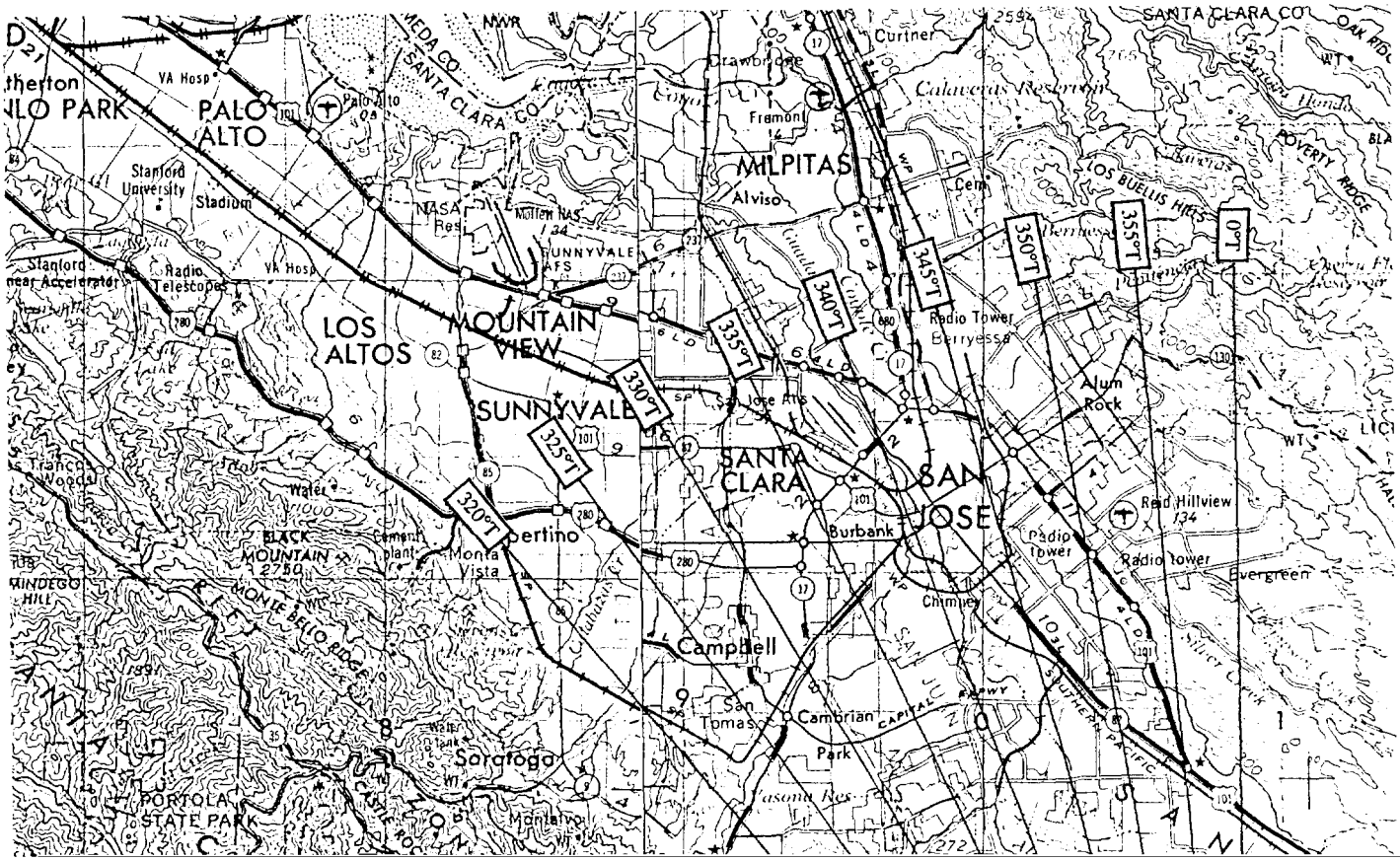
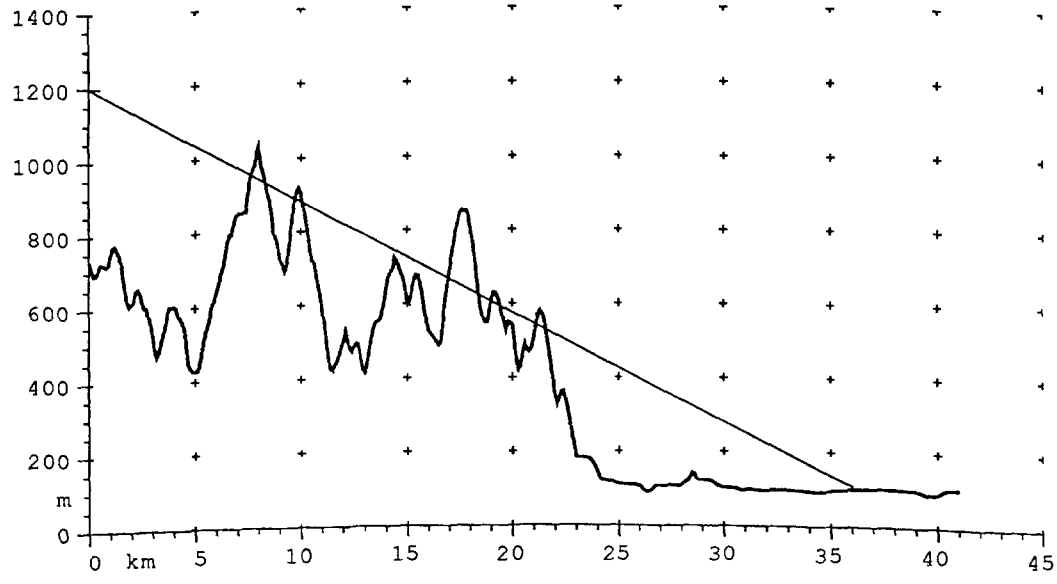
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

RADIALS FROM KSBW SITE TO SAN JOSE, CALIFORNIA

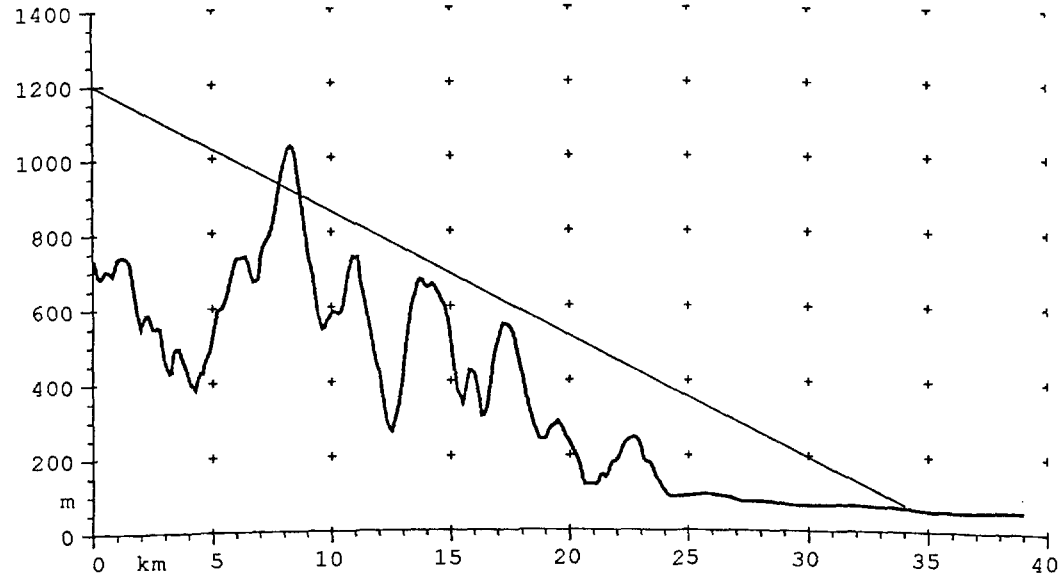


MM DOCKET 93-142 COMMENTS
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

320°T AND 325°T RADIALS FROM KSBW SITE TO SAN JOSE, CALIFORNIA



320.0T from 37- 3-30 121-46-33, 4/3 earth, USGS 3-second data



325.0T from 37- 3-30 121-46-33, 4/3 earth, USGS 3-second data

Terrain profiles from KSBW site, with same elevation as employed by TV Station KSBW, to most-distant extent of City of San Jose population centroids based on the 1990 U.S. Census. Profile extends an additional 5 kilometers beyond this distance.

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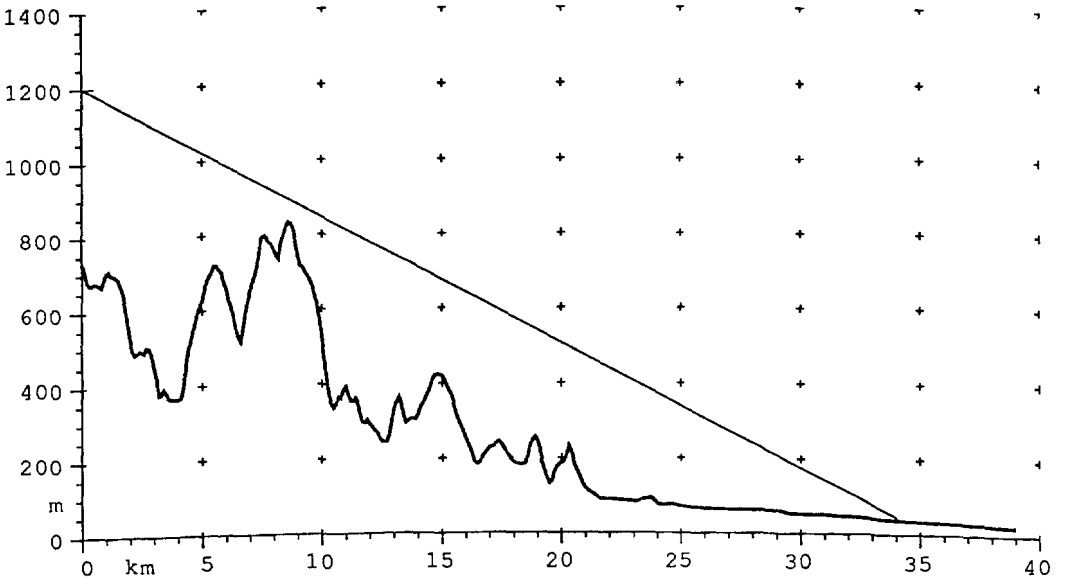
PROPOSED DELETION OF CHANNEL 11 ALLOCATION
WILLITS, CALIFORNIA

330°T AND 335°T RADIALS FROM KSBW SITE TO SAN JOSE, CALIFORNIA



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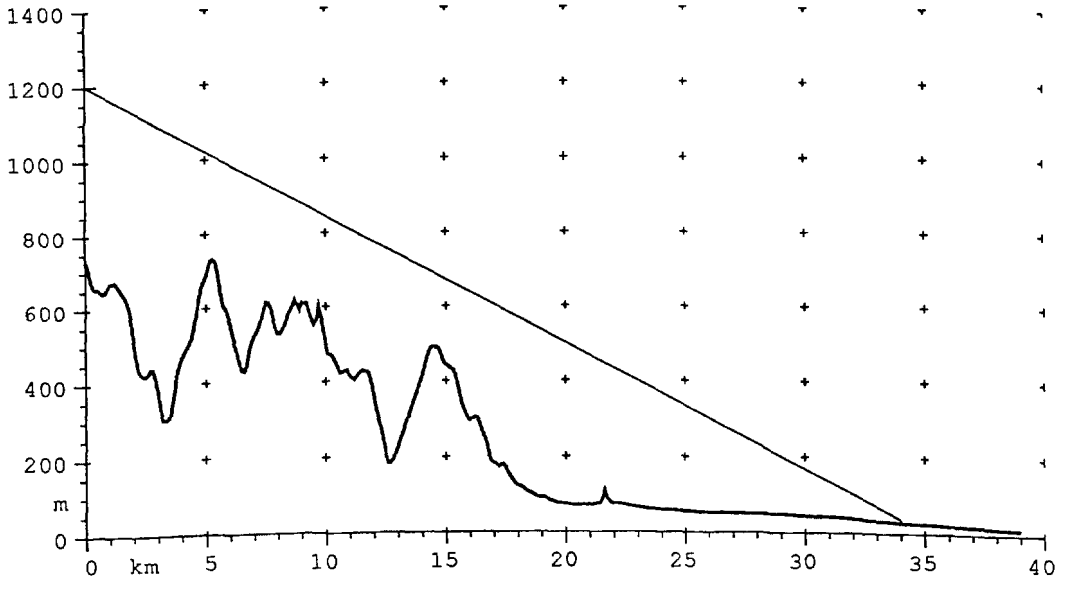

335.0T from 37- 3-30 121-46-33, 4/3 earth, USGS 3-second data

Terrain profiles from KSBW site, with same elevation as employed by TV Station KSBW, to most-distant extent of City of San Jose population centroids based on the 1990 U.S. Census. Profile extends an additional 5 kilometers beyond this distance.